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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/479,304	01/06/2000	GEOFFREY B. RHOADS	60085	2884

23735 7590 06/04/2004

DIGIMARC CORPORATION
19801 SW 72ND AVENUE
SUITE 250
TUALATIN, OR 97062

EXAMINER

AKPATI, ODAICHE T

ART UNIT	PAPER NUMBER
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2135

DATE MAILED: 06/04/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/479,304

Applicant(s)

RHOADS, GEOFFREY B.

Examiner

Tracey Akpati

Art Unit

2135

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 January 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>5</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-6 are pending. Claims 1-4 have been amended. This action is a final rejection.

2. *The attorney argues that Greenberg does not teach or suggest a cell phone.* The reference does teach transmission of the audio signal by telephone after it has been encoded. The attorney is referred to Fig. 1. In Fig. 1 it shows a transmitter at the same site as the encoder. This means that after the audio data is encoded it is transmitted by a wireless phone. Also the invention refers to wireless audio broadcasts on column 2, lines 16-19.

3. *The attorney argues that even though cell phones are well known in the art, there is no teaching that would lead an artisan to incorporate Greenberg teaching to a cell phone.* The attorney is referred to the patent assigned to Malm (3517315). A mobile telephone and a cell phone are one and the same thing. This patent teaches the use of mobile telephones in the transmission of broadcasted voice messages (Malm, column 1, 10-29).

4. *The attorney argues that Greenberg is an analog system while his invention is a digital system. Greenberg is in fact a digital system (see Greenberg on column 3, lines 43-67 and column 4, lines 1-5).* The word digital is even used on column 4, line 4 to describe the audio signals that are encoded and ready to be transmitted. The audio source material is encoded with a source identification and timing signals through an encoder. The final encoded stream is a digital representation and it is transmitted by a wireless telephone (line 4, 6-12 and Fig. 1).

5. *With respect to Claim 5, the attorney argues that Greenberg does not receive input information in non digital form and express the received information in digital form.* The limitation of Claim 5 is disclosed by Greenberg on column 3, lines 43-67 and furthermore on column 4, lines 1-5. This cited paragraph shows how the information is received as non digital audio source material and digitized by encoding it with the timing and id signals.

6. The IDS has been initialed and returned with this correspondence as requested by the attorney.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Greenberg (5379345).

With respect to Claim 1, the limitation of “a cell phone including a data capture system and a radiant-energy digital data transmission system, characterized in that the cell phone further includes a steganographic encoder that hides a plural-bit auxiliary code within data captured by the data capture system prior to its transmission by the data transmission system” is met on column 2, lines 16-23, 36-50 and column 4, lines 6-12 and Fig. 1. The audio signal being

wirelessly broadcasted (Fig. 1) can be done by a telephone. If it is wirelessly done, then the telephone must be a wireless telephone, which is equivalent to a cell phone. The data being sent is first encoded with a source identification and timing signals to form a digital representation (column 4, lines 2-5), after which it is wirelessly transmitted. The encoded data of the identification and timing signals are virtually impossible to detect by an ordinary eye and hence form the steganographic data.

With respect to Claim 2, the limitation “in which the data capture system captures audio and includes a microphone” is met in Fig. 4, reference nos. 50 and on column 5, lines 37-40.

With respect to Claim 3, the limitation “the steganographic encoder operates transparently to a user of the cell phone, wherein substantially all of the data transmitted by the cell phone is steganographically encoded” is met on Fig. 3 and column 3, lines 51-61. The encoded data of the identification and timing signals are virtually impossible to detect by an ordinary eye and hence form the steganographic data.

With respect to Claim 4, the limitation “receiving input information” is met on column 5, lines 8-31. The limitation “steganographically encoding the input information to hide a plural-bit auxiliary code therein” is met on column 5, lines 32-44. The limitation “transmitting the steganographically-encoded information by wireless in a digital format” is met on Fig. 1, column 4, lines 2-5 and column 5, lines 45-47.

With respect to Claim 5, the limitation "receiving the input information in non-digital form" is met on column 5, lines 30-31. The limitation "expressing the received information in digital form; and encoding the digital form of the input information" is met on column 3, lines 43-67 and column 4, lines 1-5.

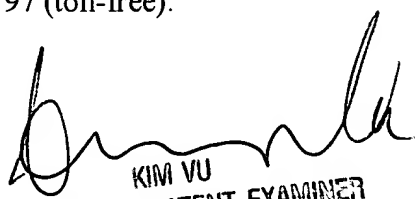
With respect to Claim 6, the limitation "input information is audio information" is met on column 5, lines 30-31.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tracey Akpati whose telephone number is 703-305-7820. The examiner can normally be reached on 8.30am-6.00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Vu can be reached on 703-305-4393. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

OTA


KIM VU
S. TECHNOLOGY PATENT EXAMINER
TECHNOLOGY CENTER 2100